

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

<b>Nor-Am Cold Storage Inc.,</b>  Petitioner-Appellant,  v.  <b>Plymouth County Board of Review,</b>  Respondent-Appellee.	<b>ORDER</b>  <b>Docket No. 09-75-0209</b> <b>Parcel No. 12-17-280-004</b>
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On October 8, 2010, the above-captioned appeal came on for a telephone hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Nor-Am Cold Storage Inc. (Nor-Am), was represented by Walter Grimms, Senior Tax Manager with SMART Business Advisory and Consulting, LLC, (SMART), Schaumburg, Illinois. The Plymouth County Board of Review designated County Attorney Darin Raymond as its legal representative. County Assessor Bob Heyderhoff represented the Board of Review at hearing. Both parties relied upon the certified record to support of their position. The Appeal Board having reviewed the entire record, heard the testimony and being fully advised, finds:

***Findings of Fact***

Nor-Am is the owner of a commercially classified, cold storage facility located at 521 8th Street, SW<sup>1</sup>, LeMars, Iowa. According to the property-record card in the certified record, the

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<sup>1</sup> The petition to the Board of Review and the appeal filed with the Property Assessment Appeal Board both identify the street address of the subject property as 521 8<sup>th</sup> Street, SW, LeMars, Iowa with a parcel identification of 001+12-17-280-004. Nor-Am submitted a partial property record printout from the Plymouth County Assessor's office with this address and parcel number. The subject property is situated on a corner lot. The full property-record card submitted in the certified record identifies the property address as 801 6th Street SW, LeMars, Iowa, but the same parcel identification number as earlier referenced. Nor-Am's appraisal also uses the 6th Street address for the subject property. For ease, we identify the property by the parcel number, and although the addresses are different we recognize they identify the same subject property.

improvements consist of several additions built between the 1960s and 1980s. The improvements consist of roughly 110,000<sup>2</sup> square feet of building area. The site is 6.766 acres.

Nor-Am protested to the Plymouth County Board of Review regarding the 2009 assessment. The January 1, 2009, total assessment of Nor-Am's property was \$2,646,230 allocated as follows: \$202,980 in land value and \$2,443,250 in improvement value. Nor-Am's claim was based on the ground that the property is assessed for more than the value authorized by law under section under Iowa Code section 441.37(1)(b). In its petition, Nor-Am sought relief to a total assessed value of \$1,900,000, which was the purchase price of the property in February 2009. The Board of Review denied the claim.

In its appeal to this Board, Nor-Am reasserted the same ground and seeks the same relief.

Nor-Am's relies solely on the purchase price of the subject property to show it is over-assessed. Walter Grimms testified the subject property was purchased in February 2009 for \$1,900,000 after having been exposed to the market for a year. Grimms testified the original list price of the subject property was \$2,800,000. When questioned about the purchase of the property, and whether an appraisal had been completed for the financing of the purchase, Grimms indicated he did not know because he had not made that inquiry with his client. At our request, Grimms checked with Nor-Am and sent the appraisal completed for the financing of the February 2009 purchase.

The appraisal was prepared by James J. Verschoor, Jr., with LeGrand & Company, Sioux City, Iowa. While the appraisal has an effective date of February 2, 2009, the sales used within the report all occurred prior to the January 1, 2009, assessment date. Verschoor developed the sales approach concluding a value of \$2,530,000, and the cost approach concluding a value of \$2,620,000. The final

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<sup>2</sup> At hearing, both parties agreed the building area is roughly 94,000 square feet. The property record card sketch calculates to roughly 94,000 square feet, however no two-story areas are noted. The appraisal completed by LeGrand & Company for the financing of the subject property at purchase in February 2009 indicates a total building area of 110,000 square feet more or less. LeGrand indicates there are two-story areas over a portion of the main offices. We will rely on the appraiser's conclusions.

opinion of value, as of the effective date of the appraisal was \$2,550,000 considering the two developed approaches to value. In the appraisal report, Verschoor states he considers the current purchase agreement is arms-length. However, in the next paragraph, he states the broker involved in the transaction believes the sale is distressed. Verschoor reports the subject property had been listed for sale in mid-2008 for \$3,200,000 and there had been an offer for \$2,800,000. This offer fell through because an agreement with city over a wastewater treatment issue could not be reached. The property was re-listed for \$2,800,000. Nor-Am made an offer of \$1,800,000 before reaching an accepted offer of \$1,900,000.

Verschoor included six comparable properties for analysis. All were similar cold-storage facilities located in the mid-west, and all the properties sold prior to the January 1, 2009, assessment date. Three of the properties were located in Iowa, two in Nebraska, and one in Missouri. The unadjusted sales prices per square foot range from \$12.76 to \$50.39. After rational and explained adjustments, the adjusted price per square foot of the comparable properties ranged from \$19.14 to \$25.80. Five of the six properties have an adjusted price above \$23.00 per square foot, with the average adjusted price being \$23.55 and the median adjusted price being \$24.11. Verschoor reconciles the sales data and takes into consideration what he believes to be a below average functional design of the subject property, as well as the deteriorating national economy to conclude the lower end of this range, \$23.00 per square foot for the subject property, or \$2,530,000 as the most reasonable indication of value by the sales approach. We find Verschoor's appraisal to be thorough, well-developed, and a credible indicator of market value.

Heyderhoff testified he did not believe the subject's sale of \$1,900,000 was an arm's length transaction due to being "dually classified." At this Board's request, he provided the Declaration of Value (DOV) for the subject property. It does indeed indicate the subject property at time of sale had both commercial and residential structures, not classifications. The DOV confirms the purchase price

reported by both Grimms and Verschoor, but does not aid us in determining if that purchase was indeed an arm's length transaction or an abnormal transaction. *See* Iowa Code 441.21(1)(b) (listing some abnormal transactions). We give minimal consideration to the DOV as an indication of market value.

After reviewing all the evidence, we find the Verschoor appraisal is the best evidence presented. The appraisal demonstrates the subject is assessed for more than authorized by law and its fair market value.

### *Conclusions of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If

sales are not available, “other factors” may be considered in arriving at market value. § 441.21(2).

The assessed value of the property “shall be one hundred percent of its actual value.” § 441.21(1)(a).

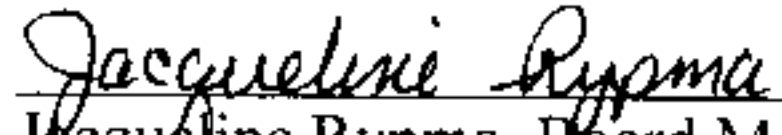
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Nor-Am believes the price paid for the subject property is evidence of fair market value. While the sales price can be considered in arriving at market value, there is some reasonable concern the subject property sale may not reflect the actual market value. Verschoor’s appraisal report supports this concern. Nor-Am also provided an appraisal completed for financing at the time of purchase, which indicates a fair market value of \$2,550,000 based upon the sales and cost approaches to value. We consider the Verschoor appraisal the best evidence in the record.

The evidence supports the claim that the property is assessed for more than the value authorized by Iowa Code section 441.21. Therefore, we modify the January 1, 2009, assessment of the property located at 521 8th Street, SW, LeMars, Iowa, as determined by Plymouth County Board of Review.

THE APPEAL BOARD ORDERS that the Nor-Am Cold Storage Inc, property located at 521 8th Street, SW, LeMars, Iowa, is modified to a total value of \$2,550,000; representing \$185,000 in land value and \$2,365,000 to the improvements as of January 1, 2009. The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Plymouth County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

Dated this 28 day of October 2010.

  
Karen Oberman, Board Chair

  
Jacqueline Rypma, Board Member

Cc:

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AUDITOR

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>10-28</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	